

**MINUTES
BOARD OF ADJUSTMENT
PUBLIC HEARING
JANUARY 11, 2007**

The Lake County Board of Adjustment met Thursday, January 11, 2007 in the Commission Chambers on the second floor of the Round Administration Building in Tavares, Florida to consider requests for variances and any other petitions that may be submitted in accordance with Chapter XIV of the Lake County Land Development Regulations.

Board Members Present:

Howard (Bob) Fox, Jr.
Henry Wolsmann, Vice Chairman
Mary Link Bennett
Donald Schreiner, Chairman
Carl Ludecke

Board Members Not Present:

Darren Eslinger
Ruth Gray

Staff Present:

Terrie Diesbourg, Director, Customer Services Division
Anita Greiner, Chief Planner, Customer Services Division
Anna Ely, Public Hearing Coordinator, Customer Services Division
Paul Simmons, Planner, Customer Services Division
Lorena McCarroll, Associate Planner Trainee, Customer Services Division
Sherie Ross, Public Hearing Coordinator, Planning and Development Services Division
LeChea Parson, Assistant County Attorney I

Chairman Schreiner called the meeting to order at 1:00 p.m. He noted for the record that there was a quorum present. He confirmed Proof of Publication for each case as shown on the monitor.

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Minutes

MOTION by Mary Link Bennett, SECONDED by Henry Wolsmann to approve the December 14, 2006 Board of Adjustment Public Hearing minutes, as submitted.

FOR: Fox, Jr., Wolsmann, Bennett, Schreiner, Ludecke

AGAINST: None

NOT PRESENT: Eslinger, Gray

MOTION CARRIED: 5-0

Chairman Schreiner stated that all letters, petitions, photographs, and other materials presented at this meeting by applicants and those in support or opposition must be submitted to staff prior to proceeding to the next case. He stated that if a variance is approved at this public hearing, the owner/applicant should give staff at least 24 hours before proceeding to the zoning counter.

Discussion of Consent Agenda

Anita Greiner, Chief Planner, asked that the following cases be removed from the consent agenda and placed on the regular agenda: BOA#131-06-3, BOA#2-07-4, BOA#6-07-4, BOA#10-07-5, and BOA#13-07-3. She also stated that there has been a request for BOA#20-07-5 to be withdrawn.

Chairman Schreiner explained the procedure for hearing cases on the consent agenda.

Withdrawals

CASE NO.:	BOA#3-07-5	AGENDA NO.:	6
OWNER/APPLICANT:	Akron Properties, Inc, a Florida corporation, Bruce Duncan, Esquire		

CASE NO.:	BOA#11-07-3	AGENDA NO.:	14
OWNERS/APPLICANT:	Edward and Maritza Gonzalez DCS & Consulting/Sharon Martin		

CASE NO.:	BOA#20-07-5	AGENDA NO.:	23
OWNER/APPLICANT:	Homes in Partnership, Inc.		

MOTION by Henry Wolsmann, SECONDED by Mary Link Bennett to accept the withdrawal of BOA#3-07-5, BOA#11-07-3, and BOA#20-07-5.

FOR: Fox, Jr., Wolsmann, Bennett, Schreiner, Ludecke

AGAINST: None

NOT PRESENT: Eslinger, Gray

MOTION CARRIED: 5-0

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AGENDA NO.: 3

Larry A. Grimes

MOTION CARRIED: 5-0

CASE NO.:	BOA#107-06-2	AGENDA NO.	1
OWNER:	Sunderman Groves, Inc.		
APPLICANTS:	Kendall G. Koehne & Allison Mullany c/o Florida Ranchland Realty, Inc.		
CASE NO.:	BOA#4-07-4	AGENDA NO.:	7
OWNERS:	Belva A. Coddling Family Trust and Central Triangle Equipment, Inc.		
APPLICANT:	Paul Bryan		
CASE NO.:	BOA#5-07-5	AGENDA NO.:	8
OWNERS:	Phyllis B. Rutland and William B. & Brenda Harvey		
APPLICANT:	William B. Harvey		
CASE NO.:	BOA#7-07-1	AGENDA NO.:	10
OWNERS/APPLICANTS:	Edward and Cheryl Sweat		
CASE NO.:	BOA#8-07-2	AGENDA NO.:	11
OWNERS/APPLICANTS:	Marelyn and Anand Paul		
CASE NO.:	BOA#9-07-3	AGENDA NO.:	12
OWNERS/APPLICANTS:	Thomas and Debra Walker		
CASE NO.:	BOA#18-07-5	AGENDA NO.:	21
OWNERS:	Robert and Rosemary Johnson		
APPLICANT:	Dallas Sands		
CASE NO.:	BOA#19-07-3	AGENDA NO.:	22
OWNER:	Lake County Board of County Commissioners		
APPLICANT:	Lake County Fire Rescue		

There was no one on the Board nor anyone in the audience who had an objection to the above cases remaining on the consent agenda:

MOTION by Carl Ludecke, SECONDED by Mary Link Bennett to take the following actions on the above consent agenda:

BOA#107-06-2	Approval with conditions
BOA#4-07-4	Approval
BOA#5-07-5	Approval with conditions
BOA#7-07-1	Approval with conditions
BOA#8-07-2	Approval with conditions
BOA#9-07-3	Approval with one condition
BOA#18-07-5	Approval with conditions
BOA#19-07-3	Approval

FOR: Fox, Jr., Wolsmann, Bennett, Schreiner, Ludecke

AGAINST: None

NOT PRESENT: Eslinger, Gray

MOTION CARRIED: 5-0

CASE NO.: BOA#131-06-3

AGENDA NO.: 2

OWNER: C. Roger Freeman
APPLICANT: Valerie C. Fuchs, Esquire

Anita Greiner, Chief Planner, showed the aerial from the staff report on the monitor. She said this case had been on the consent agenda, and she asked to have it removed. Staff has recommended approval with the condition that no further administrative lot splits could be done on this property. This would include minor lot splits and family lot splits. This is common practice on smaller lots; but with lots that are 20 acres or more, family lot splits are usually permitted. Therefore, she would like to change the staff recommendation to approval with the condition that no further minor or family lots splits would be allowed on the two five-acre parcels; it would be the same on the larger parcel for the minor lot splits but family lot splits would be allowed. When Mary Link Bennett asked if one or two family lot splits would be allowed, Ms. Greiner replied that it would be a family lot split for the number of children they have.

Valerie Fuchs was present to represent the owner. She said they agreed with staff's new recommendation that the condition should be limited to the two five-acre tracts so her client would still have the ability to use whatever legal procedures are in place for him in the Codes today; or in the future, he can still access those procedures that are available to him like every other citizen in Lake County. Therefore, they agree with staff's recommendation on that condition change.

There was no one on the Board or in the audience who wished to speak on the case.

MOTION by Carl Ludecke, SECONDED by Mary Link Bennett to approve the variance request in BOA#131-06-3 with the condition that no further minor or family lots splits would be allowed on the two five-acre parcels and that the 21-acre parcel could not be divided further through the minor lot split process but could be divided through the family lot split process.

FOR: Fox, Jr., Wolsmann, Bennett, Schreiner, Ludecke

AGAINST: None

NOT PRESENT: Eslinger, Gray

MOTION CARRIED: 5-0

CASE NO.:

BOA#1-07-3

AGENDA NO.:

4

OWNER/APPLICANT:

Deborah B. Fields

Anita Greiner, Chief Planner, presented the case and staff recommendation of denial. She submitted an aerial showing the dimensions of the property as County Exhibit A. She also submitted a drawing of the property (County Exhibit B) and pointed out the location of the kennel on the property. Based on calculations she had generated, Ms. Greiner said there is no place on the property where the kennel could be located and meet the 200-foot setback due to the layout of the property. She added that there are 20 letters of opposition in the backup. An additional letter of opposition was received on this day. She submitted and showed a map of the area (County Exhibit C) indicating the location of the properties owned by the writers of the letters of opposition. She noted that most of the surrounding properties have dwelling units on them. When Carl Ludecke inquired about the reports from Animal Control, Ms. Greiner said those reports were part of one of the letters of opposition. Mr. Ludecke noted the number of people who object to the existing conditions on the property.

Deborah Fields was present to represent the case. She submitted a packet of additional information as Applicant Exhibit A. Mr. Ludecke was informed by Ms. Fields that she does not breed these animals. Regarding the Animal Control reports, Ms. Fields said that in one instance, the dog was not theirs. She noted that the property is zoned Agriculture, and she is trying to farm. In response to Mary Link Bennett, Ms. Fields said she has lived on this property for 15 years and has had no previous complaints. Regarding the packet of information, Ms. Fields pointed out that it was Susan Ireland's underage grandson who shot their dog. She said she ended up with a \$700 veterinarian bill, and none of Ms. Ireland's pets were injured in any way. Some of the complaints were regarding the fact that the neighbors do not want any businesses in the area. This is already a business; it is a registered farm. She felt that Clermont needs a kennel. Ms. Bennett was informed by Ms. Fields that this kennel will have 15 runs. She will have as many dogs as the County allows her to have.

Ms. Greiner confirmed that the zoning is Agriculture, and the future land use is Rural, but a Conditional Use Permit (CUP) is needed to operate a kennel. The variance request before this Board only pertains to leniency on the setback requirements. A kennel's setback requirement is 200 feet from all property lines and rights-of-way. Ms. Fields read into the record that if a livestock building cannot be constructed due to the 200-foot setback requirement, then the livestock building shall be as closely centered as possible between the property lines and shall maintain a 50-foot setback from the property line. If the lot width or length is equal to or less than 150 feet, then the livestock building shall be as closely centered as possible between the property lines and shall maintain a 50-foot setback from the property line. If livestock can be housed and given a minimum of 50 feet, then she questioned why a kennel cannot be given the same consideration. Ms. Greiner explained that there are different regulations for kennels. Ms. Fields said others are able to build businesses and homes within 200 feet along CR 561. Chairman Schreiner said the only issue this Board can discuss is the exact circumstances of this request. Regarding hardship, Ms. Fields referred to Page 3 of Applicant Exhibit A. Ms. Greiner explained to the Board that if it decides that Ms. Fields has presented a hardship, it is also necessary for Ms. Fields to show that this request would meet the intent of the Code.

Gary Maxwell, property owner to the south on CR 561, said that when Ms. Fields moved to her property 15 years ago, she built a house to live in. She did not build a farm or kennel. That set a precedent for what that area is. He has lived on his property for eight years. During the past few years, he has seen puppies for sale and pit bulls for sale. He knows they have four dogs. They are big and aggressive and have come across vacant land. They have been aggressive to his wife and other neighbors. He said Ms. Fields has made some statements about beautification and hardship that he would like clarified. Mr. Maxwell submitted a packet of pictures of the existing subject property as Opposition Exhibit A. He spoke of the construction debris, sheds that are falling down, concrete blocks, junk cars, and disabled boat in the backyard. The proposed kennel is to be built in the front yard. If the backyard were cleaned up, the kennel would probably be placed there. He did not think there will be 25 feet between the kennel and the front porch of the house.

CASE NO.: BOA#1-07-3 **AGENDA NO.:** 4

OWNER/APPLICANT: Deborah B. Fields **PAGE NO.:** 2

Antonia Specht, property owner across the street from the subject property, said she has lived on her property for six years but has owned the property for 30 years. Her concern was the care of the animals. Currently Ms. Fields has horses, but she does not maintain the fences very well. Her horses escaped from her yard because the fences were broken. Ms. Specht and her husband rescued the horses from running down CR 561 and fixed the fence so the horses would not get out again. She did not feel the maintenance on the property warrants breeders having a kennel. She has heard that they are going to raise pit bulls, and that is a concern to her.

Ray Manning said he lives behind the subject property on Sugarloaf Mountain Road. He spoke of an Animal Control report dated September 29, 2003 regarding an incident with Ms. Fields' peacocks. This incident continued through January of 2004. He has also had problems with Ms. Fields' goats and geese coming over to his property. He did not feel the display of care for Ms. Fields' existing animals warrants her being allowed to have a dog kennel.

Susan Ireland, adjacent resident on the 25 acres circling the subject property and the Manning property, said that land is owned by Attorney Leonard Baird, Jr., who has submitted a letter to this Board. Chairman Schreiner confirmed that the letter is on file. She said that throughout the years, Ms. Fields' dogs have come onto her property and have chased her cows and the cows she cares for. Over the past three years, she has chased the dogs back, shot guns into the air to get them to go back, and called and talked to Ms. Fields' husband, Willie, and other people living there to express that the dogs must be kept on their own property. When she confronted Mr. Baird about the issue, he said she had the right to shoot a dog if the dog is on her property and if she felt the dog is within an unsafe distance of the cows. She did shoot at the dog, and it went home. She called Animal Control to report what had happened; she never saw anyone leave the house within the next 30 minutes after the shooting to take the dog to the veterinarian. In another earlier incident, her father used a board on one of the dogs to scare the dogs away when they were barking and growling at him on her property.

Adam Coyman, neighbor across Sugarloaf Mountain Road from the subject property, said he is close friends with Ms. Fields. This is not a personal issue; it is a business issue. He asked this Board to take into consideration what has been said and to also consider the area and what a building placed in that location would look like. As a business, it would not work. He did not feel there is any reason in this case to grant a variance. There is not enough significant hardship proven.

Ms. Field asked this Board to consider the exhibit that she submitted.

MOTION by Carl Ludecke, SECONDED by Henry Wolsmann to deny the variance request in BOA#1-07-3.

FOR: Fox, Jr., Wolsmann, Bennett, Schreiner, Ludecke

AGAINST: None

NOT PRESENT: Eslinger, Gray

MOTION CARRIED: 5-0

CASE NO.: BOA#2-07-4**AGENDA NO.: 5****OWNER/APPLICANT: Susan Jakucewicz**

Anita Greiner, Chief Planner, said she had asked that this case be removed from the consent agenda for a clarification of a condition. She explained that this property fronts on two roads. She showed the aerial from the staff report on the monitor. She submitted a survey and site plan as County Exhibit A. She said that she noticed that most of the swimming pool, deck and pool enclosure would be 15 feet from the right-of-way of Interlachen Drive, but there is a corner that may be 13 feet. The variance request was advertised for less than the required setback so the advertisement would allow approval of a setback of 13 feet from the right-of-way.

There was no one in the audience who wished to speak on the case.

MOTION by Mary Link Bennett, SECONDED by Carl Ludecke to approve the variance request in BOA#2-07-4 with the condition that the swimming pool, deck, and screen enclosure shall be no closer than 13 feet from the right-of-way of Interlachen Drive.

FOR: Fox, Jr., Wolsmann, Bennett, Schreiner, Ludecke**AGAINST: None****NOT PRESENT: Eslinger, Gray****MOTION CARRIED: 5-0**

CASE NO.: BOA#6-07-4

AGENDA NO.: 9

OWNERS: Ashish and Chaitrali Karve'

APPLICANT: Ashish Karve'

Anita Greiner, Chief Planner, said she had asked that this case be removed from the consent agenda because a letter of opposition had been received. That letter has been included in each member's notebook. She presented the case and staff recommendation of approval with conditions. She showed the aerial from the staff report on the monitor, noting that Horse Ranch Road is a 66-foot wide easement. She then submitted a second aerial showing the two parcels after the minor lot split (County Exhibit A). The parcel was once two separate parcels and then joined through a lot line deviation; the owners now want to separate them once again.

Regarding the letter of opposition, Carl Ludecke said he would like to talk to the property owner about the condition of the property.

Chaitrali Karve' was present to represent the case. She apologized for the mess on the property. They had rented the mobile home on the property to someone who messed it up. She agreed that it needs to be taken away; but because they have a mortgage on both the mobile home and the land, the bank would not allow them to do that. If they split the parcel, they can do some creative financing and clean it up. Mr. Ludecke said he has seen the property, and it is an eyesore that has been that way for many years. He did not feel the mobile home would be of much monetary value. He added that there are piles of debris on the property. He questioned whether this was an indication of what is to come. Ms. Karve' reiterated that this variance would allow them to clean up the property.

In response to Mr. Ludecke, Ms. Greiner said Code Enforcement will go out to the property if a complaint is received.

There was no one else in the audience who wished to speak on the case.

MOTION by Carl Ludecke, SECONDED by Mary Link Bennett to approve the variance request in BOA#6-07-4 with the conditions that both of the newly created parcels must be five acres in size, and the newly created parcels cannot be split further utilizing any of the administrative lot split processes.

FOR: Fox, Jr., Bennett, Schreiner, Ludecke

AGAINST: Wolsmann

NOT PRESENT: Eslinger, Gray

MOTION CARRIED: 4-1

CASE NO.: BOA#10-07-5

AGENDA NO.: 13

OWNERS: Gary and Sandra Stura
APPLICANT: William Stewart

Anita Greiner, Chief Planner, stated that she had asked that this case be removed from the consent agenda as a letter of opposition had been received. Two letters of support were also received. Ms. Greiner showed two aerials from the staff report on the monitor. One aerial showed the parcel as it currently exists. The other aerial showed the parcel after it has been split. She said she had asked a fire inspector from the Building Services Division to check on the condition of the easements. The inspector was concerned about several areas on the easements so a condition has been added to the staff recommendation to address that. Ms. Greiner submitted a flood map as County Exhibit A, noting that there are some flood and wetland areas on the property; but there are plenty of areas outside the flood zone that would allow development. She also submitted a map (County Exhibit B) showing the properties owned by the writers of the letters of opposition and support.

Mary Link Bennett confirmed that the applicant would still have the privilege of family lot splits on both parcels.

Gwen Hall, property owner on the west side of the subject property, said the road going out to that property is a roller coaster; it is continually washed out. The neighboring properties are his 40 acres, the subject 40 acres, another 40 acres, and 300 acres. The properties in front have been developed into five- and ten-acre tracts. When he purchased his property, he was told that the property was not dividable into smaller parcels. There are a lot of wetland areas. In the past ten to 12 years, he has seen a huge decline in the animal population in the area. He did not feel there is a hardship because the owners knew the property was not dividable when it was purchased. The letters of support were written by family members and friends. This split will create more traffic. Just east of the subject property is protected land. He was opposed to the lot split. If the Board is considering approving the variance, Mr. Hall asked that this case be postponed so he can contact his attorney.

Rodney Anschutz, resident at the end of Will Murphy Road, submitted a petition of opposition with 26 signatures as Opposition Exhibit A. He said the road is very bumpy with trees and potholes to drive around. The residents do not want improvements to the road or any more houses.

Ms. Greiner submitted a wetlands map as County Exhibit C. She explained to Mr. Anschutz that a survey would be needed to determine the exact wetlands. Even with the drought, Mr. Anschutz said there is water on the properties. When the three 40-acre parcels were sold, Spring Water Lane was not there. It was on the books that it was existing, but it was not there. The owner that sold those lots came in on a three-day weekend with a big front-end loader and a bulldozer and made that road. They dug a pond on the subject lot for that road. It never existed until they sold those three lots. Now the spring that goes through the back of their properties does not flow anymore; it overflows because they damaged it. The trees were bulldozed into the woods; they did not remove them. It was a mess. If this variance is approved, he questioned what would stop the other 40-acre parcels from doing the same thing. They do not need any more traffic out there. He said he could not find one person in support of this request except for relatives.

William Stewart, father of the applicant, was present to represent the case as his son teaches school and could not attend this meeting. He said Don Monn owned the property originally and added the road. He purchased 40 acres, and Gary and Sandy Stura also purchased the subject 40 acres. His son is attempting to purchase this property, but he needs to be able to split it in order to purchase it. He wants to split the property into two 20-acre parcels at one unit per 20 acres. He agreed that Spring Water Lane is somewhat bumpy, but he felt an ambulance or fire engine could get to the end of the road. It is a dirt road, and a heavy rain does make it a difficult road for driving; but he felt it was always passable. His son understands that the road must be improved.

In response to Carl Ludecke, Mr. Stewart said there is no road that runs east and west on the north side of the subject property. Spring Water Lane would be the access for the two 20-acre lots if the larger parcel is

CASE NO.: BOA#10-07-5

AGENDA NO.: 13

OWNERS: Gary and Sandra Stura
APPLICANT: William Stewart

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split.

Chairman Schreiner was informed by Ms. Greiner that if the road does not extend at least 150 feet into the second parcel, the applicant would be required to create an access to that parcel as part of the minor lot split process. Ms. Greiner said the reason for this variance is that this road does not connect to a County-maintained road. If it did, no variance would be necessary. She pointed out one-acre and ten-acre parcels in the area. The parcel is 7/10 of a mile from the paved portion of Will Murphy Road.

Margaret Anschutz, wife of Rodney Anschutz, said more lot splits at this end of Will Murphy Road will create a hardship for anyone who lives and drives out there. At their level on Will Murphy Road, the houses go down by two feet in elevation toward Lake Norris, which can be a problem when heavy rains come. There are several horse trailers and hunting trucks that travel on Spring Water Lane. When they purchased their property in 1994, they were deeded one house per ten acres. By the time they built their house in 1998, the Board of County Commissioners (BCC) changed the regulations to allow one-acre lots. She felt that lot splitting is unnecessary; there are lots for sale north of the subject property. She was concerned about family lot splits in the future.

David Bendle said he lives three properties away from Spring Water Lane. He moved to this area eight or nine years ago because of the country atmosphere. When they moved to this area, there were three homes; now there are 11. His main concern, however, was the change in density from one unit per ten acres to one unit per one acre; Spring Water Lane cannot handle any more traffic.

MOTION by Carl Ludecke, SECONDED by Mary Link Bennett to approve the variance request in BOA#10-07-5 with the following conditions:

1. All areas of Spring Water Lane that do not allow safe and easy passage of emergency vehicles must be restored with material that creates a hard base and allows safe and easy access; the road must be inspected by a fire inspector from the Lake County Building Division prior to the final development order being recorded for the minor lot split.
2. The newly created parcels cannot be split further utilizing the minor lot split process.

FOR: Fox, Jr., Bennett, Ludecke

AGAINST: Wolsmann, Schreiner

NOT PRESENT: Eslinger, Gray

MOTION CARRIED: 3-2

At the request of Anita Greiner, Chief Planner, Chairman Schreiner announced a ten-minute break. The meeting would reconvene at 2:45 p.m.

CASE NO.:	BOA#12-07-3	AGENDA NO.:	15
OWNERS/APPLICANTS:	Frances and Asa Stone		
CASE NO.:	BOA#13-07-3	AGENDA NO.:	16
OWNER/APPLICANT:	Jane K. Whaley		
CASE NO.:	BOA#14-07-3	AGENDA NO.:	17
OWNER/APPLICANT:	Freida Kleiser		
CASE NO.:	BOA#15-07-3	AGENDA NO.:	18
OWNER/APPLICANT:	Opal Handley		
CASE NO.:	BOA#16-07-3	AGENDA NO.:	19
OWNERS/APPLICANTS:	Michael Stone		

With the permission of the Board and applicants of these cases, Anita Greiner, Chief Planner, said she would like to group the above five cases together. LeChea Parson, Assistant County Attorney, said that could be done as long as a separate motion is made for each case. Ms. Greiner showed an aerial on the monitor (County Exhibit A) and pointed out the properties for each of the cases. All five owners are requesting a variance to allow them to either keep the fences they have that are located closer than 40 feet from the centerline of the road or to construct a fence that will be closer than 40 feet from the centerline of the road. She submitted pictures of the fences that are currently on the properties as County Exhibit B.

In response to Carl Ludecke, Ms. Greiner said the owners stated that they put in fences in this area because there is a commercial establishment (bar/restaurant) across the road, and the patrons of the bar/restaurant - are parking in their yards. She spoke of the complaint filed with Code Enforcement in May of 2006, as written in the staff report.

When Chairman Schreiner asked if the "No Parking" signs were private, Ms. Greiner said they are not County signs.

Ms. Greiner said Ms. Whaley's property does not have a fence at this time, but she wants to construct a fence and add a berm.

Chairman Schreiner was informed by Ms. Greiner that Ms. Whaley's and Ms. Kleiser's properties have lake access.

Ms. Greiner stated that the Lake County Public Works Department searched their records. During that search, it did not reveal that there is any dedicated right-of-way in this area at all from Camp Road 2000 feet out. All the County has is the maintenance rights to the actual area that is maintained in accordance with the Florida Statutes, meaning that the County maintains only the paved portion. There is no right-of-way on either side; it is actually the people's property. The intent of the Code for the fence setback is for safety, making sure that fences are a safe distance from the traveled roadway to allow safe passage of motor vehicles. She referred to the information in the staff report regarding clear zones. Staff does not feel the large poles are a safe distance to have that clear zone to maneuver around an obstacle. Staff is recommending denial of the request to allow the existing fences to remain in their current location. However, staff is recommending approval to relocate the existing fences back at least ten feet from the traveled portion of the road. For people who don't have fences and want to put fences on their property, staff would recommend approval to allow them to put the fences ten feet from the traveled road.

Chairman Schreiner confirmed with Ms. Greiner that these properties extend to the grass edge of the paved road. He said that even if the people put their fences on the edge of the road, whether it is five feet or ten feet, the liability will rest on the homeowner. Ms. Greiner said that staff is recommending ten feet because they want to follow the guidelines of the Florida Department of Transportation (FDOT). When Chairman Schreiner asked if Public Works would not be able to place any official "No Parking" signs on the property since the property goes up to the edge of the road, Ms. Parson said Public Works is looking into that; they

CASE NO.:	BOA#12-07-3	AGENDA NO.:	15
OWNERS/APPLICANTS:	Frances and Asa Stone		
CASE NO.:	BOA#13-07-3	AGENDA NO.:	16
OWNER/APPLICANT:	Jane K. Whaley		
CASE NO.:	BOA#14-07-3	AGENDA NO.:	17
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CASE NO.:	BOA#16-07-3	AGENDA NO.:	19
OWNERS/APPLICANTS:	Michael Stone	PAGE NO.:	2

have not yet determined if they can put County signs out there. In response to Chairman Schreiner, Ms. Parson said that a homeowner has the option of calling the Sheriff's Office and having someone tow the cars off their private property with any type of "No Parking" sign on private property. When Chairman Schreiner suggested the Board wait to make a decision on these variance requests until it is determined whether the County can put "No Parking" signs on private property, Ms. Greiner said the signs are not part of these variance requests. Chairman Schreiner was informed that the closest existing sign to the road is approximately four feet from the edge of the pavement.

Frances Stone said this has become quite a problem for the property owners, especially on the weekends. She said she has had a fence or some type of barrier to keep people off her property for the past 30 years. Her property is right in front of the bar. When these people bought this bar, her fence, as well as the other fences, was already there. The recommended ten feet would still give cars room to park. They would prefer a six-foot setback so there would not be room for the cars to park unless they were out on the road. Chairman Schreiner asked if it was possible that the bar owners were oblivious to this problem. Ms. Stone said they want it this way so they can make money.

Jane Kleiser Whaley said she has talked to Commissioner Stivender, and it was her recommendation for the County to put up "No Parking" signs to eliminate the whole problem, but that issue is still being researched because it is private property. They have put up their own "No Parking" signs. She has gone to towing companies and gotten signs that would allow the company to tow vehicles after the signs have been up 72 hours. One of the patrons of the bar is an attorney, and he called the towing companies and told them if they tow the vehicles, they will be in a legal battle with the property owners because the property owners are in some legal battle (which she said they are not) so no one will come out and tow the vehicles because they do not want to get in the middle of something. The Sheriff's Department cannot tow the vehicles because it is private property. They have had the Sheriff's Office come out frequently. The regular customers of the bar, who know they are not supposed to park there, seem to be the biggest offenders. Then others follow. The bar has had people out there parking their patrons' cars along the road. She spoke of the safety of their children who play in the yards. Cars will actually go into their yards. The bar's delivery trucks turn around in her driveway, making big ruts. She has put up a berm with vines so it cannot be used as a turnaround area. There is insufficient parking for the facility. The attorney she spoke of earlier made a report to Sumter Electric claiming that she was impeding electric service. She does not even have a fence. She questioned whether constructing fences would solve the problem.

Mary Link Bennett asked whether any of the applicants had considered capitalizing on the situation by using a parcel as a parking lot. Ms. Whaley said the bar owners would probably like to do that, but the property owners do not want to do that. It is a very noisy situation, and that would be encouraging it. Ms. Bennett was concerned about the liability risks to the property owners should one of these patrons hurt themselves while on private property.

Mr. Ludecke asked if anyone has looked into the possibility of each property owner giving the County a

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OWNER/APPLICANT:	Jane K. Whaley		
CASE NO.:	BOA#14-07-3	AGENDA NO.:	17
OWNER/APPLICANT:	Freida Kleiser		
CASE NO.:	BOA#15-07-3	AGENDA NO.:	18
OWNER/APPLICANT:	Opal Handley		
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OWNERS/APPLICANTS:	Michael Stone	PAGE NO.:	3

ten-foot strip in front of their properties so the County can control it. Ms. Whaley said Commissioner Stivender was researching whether the County could put up the road signs. Ms. Whaley commented that her family has been on this property since 1884.

If the County can provide an outlet for relief by placing County-enforceable signs on private property, Chairman Schreiner said that would be a solution; but that would not be addressing the fence setback. He reiterated that he would like to see what the County can do before deciding on the variance request. Although related, Ms. Parson said the fence issue is a separate issue. Even if the variance for the fence is denied, Ms. Parson said there can still be other things done after that.

In response to Henry Wolsmann, Ms. Whaley said in the paper she has from Sumter Electric, it states that the attorney she spoke of earlier is Rick Joyce, attorney representing the Hide Away Bar. She said she could not say definitely that he represents the bar or is just a friend. The attorney is aware that there is no right-of-way in that area. The attorney became a problem when he would park first on the private property and then the other patrons would follow. When the "No Parking" and towing signs were put up on the property, the attorney parked his car backwards. One night they had to call the Sheriff's Department, and the attorney got a written warning about not parking there again. Mr. Ludecke was informed by Ms. Whaley that the cars are parked on both sides of the road. Ms. Whaley said a deck has been added to the building, and the parking is no longer adequate. They also lost some of their parking when they added the deck.

Ms. Greiner said this Board is not here to fix the parking problem; the issue is the safest location for the fences.

Chairman Schreiner said the Board can make a motion to continue these cases to a later date if that is the desire of the Board.

Michael Stone said he has lived on his property for 50 years. He submitted four pictures as Applicant Exhibit A, and Ms. Greiner showed them on the monitor. He said large trucks turn around in their driveways, destroying the driveway and irrigation systems. The cars parking out on the road are a safety issue. Since the 1960's, they have had different types of barriers on their properties, updating the barriers through the years. With the fences close to the road, the bar patrons know they can't park there. If the fences must be moved in ten feet from the edge of the road, it will allow more room for the cars, worsening the problem for the property owners.

David Stone, part owner of the bar, said he has tried to get along with the other property owners. He and the other owner have been investigating all possible solutions to this parking problem. They made an offer to lease some property to park the vehicles. They bought a business at which people were accustomed to parking on the street. They dispute the ownership right up to the road. The property owners were aware that they must build facilities 40 feet from the centerline of the road. They choose not to build at that

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distance. They did not get permits from the County. None of the signs or fences have been permitted. He submitted six pictures as Opposition Exhibit A. He pointed out in the pictures that permanent structures are placed three to five feet from the edge of the roadway. He added that the pictures were taken December 29, 2006. The property owners are still constructing things closer than 40 feet illegally. There is no hardship. The property owners could construct the sign 40 feet back from the road. He and the other owner disagree with the ten-foot condition as 40 feet is the regulation. The bar workers called for an ambulance to come to the bar, but it could not back out with those permanent structures so close to the roadway.

David Stone said he and the other owner want to resolve this problem. He agreed with the staff recommendation of denial, but he did not agree with the ten-foot setback. He submitted a copy of the Lake County sign regulations as Opposition Exhibit B. Ms. Greiner said the signs would be a Code Enforcement issue. David Stone explained that the bar workers have attempted to try to direct people to stay off of other people's property. However, it is difficult to tell their patrons where to park. Part of the problem is their success. They run a clean operation. They close at 8:00 p.m. Most of the problems that occur with the parking take place on Saturdays and Sundays when the majority of their business gets going. When they purchased the property, they had no problem with the fencing. The problem began when the illegal signs were constructed within the 40 feet. He felt the property owners were trying to put them out of business.

Don Mifflin, adjacent property owner to the bar for ten years, said he has experienced the change in growth that has happened with the successful operation of the bar. He spends the weekends controlling traffic from his property as people park there illegally. He owns a business himself with 6-1/2 acres; much of the property is used for parking for his customers. He said he is representing Clay Peters, who owns the property on the other side of the bar. Mr. Peters is in the process of researching and will ultimately build a fence that borders the two properties. That will result in the bar losing one-third of the area it uses for parking as it will be fenced and noticed as private property. Mr. Peters is concerned about liability for people using his property for parking without his approval. This will worsen the parking problem on the street. Mr. Mifflin said he would recommend the fences staying where they are but making them not a hazard by using something such as plastic fencing. This would still keep people off private property.

Opal Handley said she was also born and raised on this road. The fence on her property has been there for 20 years. She agreed that the posts are too big, but her father-in-law put them up after the last set of parking signs that were there were stolen; other times the signs have been run over. She submitted an offense incident report from the Lake County Sheriff's Office (Applicant Exhibit A) regarding one of the times when law enforcement was called out to the Whaley's property. This has been an ongoing problem, and it is getting worse. Traffic on the road is increasing. She referred to a letter from Palmer Homes who supported the fences remaining to help control the parking on the sides of the road because of the traffic hazard. The property owners feel that they should not be forced to lease or sell their land to the bar. It will get worse as more homes are built in this area. Her fence is mostly ten feet back from the edge of the road. There are some places where there are posts because people would park in her driveway and run over the

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OWNER/APPLICANT:	Freida Kleiser		
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telephone outlet. She felt that most of the property owners would prefer not to have a fence at all, but now they have to protect their properties and their families.

Freida Kleiser said she has lived in this area for 58-1/2 years.

MOTION by Carl Ludecke, SECONDED by Mary Link Bennett to approve a variance in BOA#12-07-3 to the 40-foot required setback from the centerline of the road to five feet from the edge of the asphalt provided that the owners can prove by survey or title that their property extends to the edge of the asphalt. This motion would be applicable to both sides of the road.

FOR: Fox, Jr., Wolsmann, Bennett, Schreiner, Ludecke

AGAINST: None

NOT PRESENT: Eslinger, Gray

MOTION CARRIED: 5-0

MOTION by Carl Ludecke, SECONDED by Mary Link Bennett to approve a variance in BOA#13-07-3 to the 40-foot required setback from the centerline of the road to five feet from the edge of the asphalt provided that the owners can prove by survey or title that their property extends to the edge of the asphalt. This motion would be applicable to both sides of the road.

FOR: Fox, Jr., Wolsmann, Bennett, Schreiner, Ludecke

AGAINST: None

NOT PRESENT: Eslinger, Gray

MOTION CARRIED: 5-0

MOTION by Carl Ludecke, SECONDED by Mary Link Bennett to approve a variance in BOA#14-07-3 to the 40-foot required setback from the centerline of the road to five feet from the edge of the asphalt provided that the owners can prove by survey or title that their property extends to the edge of the asphalt. This motion would be applicable to both sides of the road.

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CASE NO.:	BOA#14-07-3	AGENDA NO.:	17
OWNER/APPLICANT:	Freida Kleiser		
CASE NO.:	BOA#15-07-3	AGENDA NO.:	18
OWNER/APPLICANT:	Opal Handley		
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FOR: Fox, Jr., Wolsmann, Bennett, Schreiner, Ludecke

AGAINST: None

NOT PRESENT: Eslinger, Gray

MOTION CARRIED: 5-0

MOTION by Carl Ludecke, SECONDED by Mary Link Bennett to approve a variance in BOA#15-07-3 to the 40-foot required setback from the centerline of the road to five feet from the edge of the asphalt provided that the owners can prove by survey or title that their property extends to the edge of the asphalt. This motion would be applicable to both sides of the road.

FOR: Fox, Jr., Wolsmann, Bennett, Schreiner, Ludecke

AGAINST: None

NOT PRESENT: Eslinger, Gray

MOTION CARRIED: 5-0

MOTION by Carl Ludecke, SECONDED by Mary Link Bennett to approve a variance in BOA#16-07-3 to the 40-foot required setback from the centerline of the road to five feet from the edge of the asphalt provided that the owners can prove by survey or title that their property extends to the edge of the asphalt. This motion would be applicable to both sides of the road.

FOR: Fox, Jr., Wolsmann, Bennett, Schreiner, Ludecke

AGAINST: None

NOT PRESENT: Eslinger, Gray

MOTION CARRIED: 5-0

Chairman Schneider suggested the applicants continue their discussions with Commissioner Stivender to get some kind of County-enforceable signs. Mr. Ludecke said it may also be possible to solve the problem by each property owner giving the County a ten-foot easement at the front of the property.

CASE NO.: BOA#17-07-4

AGENDA NO.: 20

OWNERS: Ricky M. Dunn & Erika L. Rawls
APPLICANT: Ricky M. Dunn

Anita Greiner, Chief Planner, presented the case and staff recommendation of denial. She showed the aerial and pictures from the staff report on the monitor and submitted the survey as County Exhibit A.

When Carl Ludecke asked Ms. Greiner how much area is in the backyard from the back property line to the back of the house, she said it appeared to be about 30 feet or more. She was not able to get into the backyard so she did not know if there were any obstructions.

Chairman Schreiner was informed by Ms. Greiner that the required side setback is five feet. In response to Mary Link Bennett, Ms. Greiner said a building permit as well as a zoning clearance must be obtained when locating or relocating a shed on a property.

Ms. Greiner noted the letters of opposition and submitted a map (County Exhibit B) showing the location of the properties where the writers of the letters live.

Rick Dunn and Erika Rawls were present to represent the case. Mr. Dunn said that when they bought the house in March, there was a shed in line with the front of the garage. It wasn't five feet from the property line, but it had been there for several years. About two months after they bought the house, the well went out. There is no access to the rear yard except on the side where the shed was located so they moved it and broke the grandfather clause. There was barely enough room to get the well truck into the backyard because of the three-foot trunk of a live oak tree. When Code Enforcement came to their home, they were told by Code Enforcement there was not enough room in the backyard for the sheds to meet all the setbacks. Ms. Greiner said the rear setback requirement is five feet unless there are wetlands; there are no wetlands in the backyard. Mr. Dunn said they were told the rear setback requirement was ten feet. The backyard can only be accessed from one side because there is a drop off on the opposite side. On the side where the sheds are currently located, there is a big oak tree that would have to be removed in order to put the sheds in the backyard. Mr. Ludecke was informed by Mr. Dunn that the septic tank is in the front of the house toward the road. Mr. Dunn added that there are four oak trees on the opposite side that would have to be taken out to put the sheds on that side. Mr. Dunn thought the sheds could meet the side setback if the sheds were placed right up against the driveway. If necessary, they could move one of the sheds back to where it was and take the other shed to his nursery, but he reiterated that they broke the grandfather clause when they moved the shed to get the well truck in the backyard. In response to Mr. Ludecke, Mr. Dunn said the house was built in 1987. He thought the well was probably drilled before the house was built. Both sheds are the same size.

In response to Mr. Ludecke, Ms. Greiner said the property is zoned R-3, which requires five-foot side and rear setbacks. There is no distance requirement from the house for a shed unless there is a bedroom window for egress. Mr. Ludecke felt one shed could be placed in the backyard without obstructing the egress window. The second shed could then be taken away. The first shed would be back basically where it was originally. Mr. Dunn said that when they bought the house, the shed was almost on the fence; and they still could not get the mower into the backyard. He stated that the survey is incorrect as far as where the shed was located. Mr. Dunn said there are 13 trees in the front yard. There are no trees in the backyard.

Susan Brooks said she lives on the shed side of the subject property. She did not mind when the shed was on her fence line to the side, but she objected to it being in front of the house. Where the two sheds are now, it completely blocks her view from the front window. If the first shed could be moved back to where it was and the second shed removed, she as well as the rest of the neighbors would not object.

MOTION by Carl Ludecke, SECONDED by Howard (Bob) Fox, Jr. to deny the variance request in BOA#17-07-4.

CASE NO.: BOA#17-07-4

AGENDA NO.: 20

OWNERS: Ricky M. Dunn & Erika L. Rawls

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APPLICANT: Ricky M. Dunn

When Chairman Schreiner said he felt there was a way for the sheds to remain on the property, Mr. Ludecke said it would be up to the owners to determine if it would possible to find a place on the property for the sheds. The motion is to deny the variance the owners had requested. Chairman Schreiner pointed out that Ms. Brooks did not have a problem with a variance to the five-foot setback off the side fence. He confirmed with Ms. Greiner that it was advertised so that this Board could grant a variance to the five-foot setback. He suggested denying the variance that was requested but granting a variance to the five-foot setback to waive it completely.

If the shed is moved, Ms. Greiner reiterated that a zoning clearance and building permit would be needed; and the shed must be anchored according to Code.

Mr. Ludecke said he could support a variance from a five-foot setback to two feet.

Carl Ludecke withdrew his motion and Howard (Bob) Fox, Jr. withdrew his second.

MOTION by Carl Ludecke, SECONDED by Mary Link Bennett to deny the variance request in BOA#17-07-4, as submitted but approve a variance on the five-foot side yard setback to two feet.

FOR: Fox, Jr., Wolsmann, Bennett, Schreiner, Ludecke

AGAINST: None

NOT PRESENT: Eslinger, Gray

MOTION CARRIED: 5-0

Discussion

Chairman Schreiner commended Anna Ely for the work that she did in putting together this large agenda.

Chairman Schreiner thanked Carl Ludecke for his service on this Board and said he would miss Mr. Ludecke's expertise, especially in construction matters.

Adjournment

There being no further business, the meeting was adjourned at 4:15 p.m.

Respectfully submitted,

Sherie Ross
Public Hearing Coordinator

Donald Schreiner
Chairman